

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

Mr. Peder Gjersøe,

Plaintiff,

v.

Getty Images, Inc., a Washington corporation

Defendant.

Civil Action No. 2:23-cv-367

COMPLAINT FOR COPYRIGHT  
INFRINGEMENT

**TRIAL BY JURY DEMANDED**

Plaintiff Peder Gjersøe (“Plaintiff” or “Mr. Gjersøe”), by and through his counsel, brings this action against Getty Images, Inc. (“Defendant” or “Getty”), and alleges as follows:

**INTRODUCTION**

1. Peder Gjersøe (hereinafter “Plaintiff”), by Plaintiff’s attorneys, brings this action to challenge the actions of Getty with regard to the unlawful use of copyrighted images (hereinafter “Images”) owned by Plaintiff, and this conduct caused Plaintiff damages.

**JURISDICTION AND VENUE**

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COMPLAINT FOR COPYRIGHT INFRINGEMENT

2. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, whereby the Defendant violated Plaintiff's exclusive rights as copyright owner pursuant to 17 U.S.C. § 106.

3. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

4. Plaintiff is a citizen of the country of Norway and his claim for copyright infringement is governed, in part, by the Berne Convention for the Protection of Literary and Artistic Works, which provides that as Norway does not mandate copyright registration in order to prosecute claims for infringement in Norwegian Courts, Plaintiff is not required to have United States Copyright Registrations for the infringed photos in order to bring suit in courts of the United States.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) because the Defendant is located within this judicial district and a substantial part of the events giving rise to Plaintiff's claim occurred in this judicial district. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) on the basis that Defendant Getty Images, Inc., a Washington corporation, resides or may be found in the District.

### **PARTIES**

6. Plaintiff is a natural person and is a professional photographer by trade.

7. Plaintiff is a citizen of the country of Norway and resides at 4a Tørfestveien, Tønsberg, Tønsberg, 3124, Norway.

8. Plaintiff is a "copyright owner" who holds "exclusive rights" to the "copyrighted work[s]" pursuant to 17 U.S.C. §§ 101 and 106.

9. Getty is a Delaware corporation with a principal place of business in Seattle, Washington.

1           10. Plaintiff is informed and believes, and thereon alleges, that Defendant unlawfully  
2 published over eighty (80) of Plaintiff's copyrighted images without Plaintiff's express or implied  
3 authority or license in order to further Defendant's commercial activities.  
4

5  
6  
7  
8                                   **FACTUAL ALLEGATIONS**

9           11. Plaintiff is informed and believes, and thereon alleges, that at all times relevant,  
10 Defendant was a business entity incorporated in the State of Delaware and operating a website which  
11 offers images for license and sale.  
12

13           12. Plaintiff is a professional photographer. He sells or licenses his photographs to people  
14 and companies seeking to make use of the photographs for advertisements and pecuniary gain. Plaintiff's  
15 livelihood is dependent on receiving compensation for the photographs he produces.

16           13. On or about May 18 through 22, 2016, Plaintiff took professional photographs of an  
17 international bicycle race (the "Tour of Norway" or "the Tour") using his specialized skills and  
18 equipment.  
19

20           14. Plaintiff licensed the photographs to the Tour of Norway for the Tour's own use in  
21 promoting its event.

22           15. At no time did Plaintiff provide the Tour, its organizers, or anyone else (let alone Getty)  
23 license or permission to use the images for any other purpose.  
24

1           16.     At no point has Plaintiff given any person or entity license or permission to commercially  
2 offer images to third parties, whether Getty or Getty's customers.

3           17.     After creating the copyrighted work and using his unique skills and abilities to process  
4 the image, Plaintiff appended Copyright Management Information ("CMI") as defined in 17 U.S.C. §  
5 1202(c) to the image. That Copyright Management Information identified the Plaintiff as the  
6 photographer and the photographic equipment used in the image's creation and contained a  
7 Description/Caption that included Plaintiff's name. See an example of an image with licensing  
8 information embedded with the description, at **Exhibit A**.

10           18.     During the race, the photographs were uploaded to a Dropbox folder that the Tour of  
11 Norway, its press officer, and Plaintiff had access to.

12           19.     Despite having never granted Defendant license or permission to use his copyrighted  
13 images, on November 26, 2020, Plaintiff performed a Google search and came across some of his  
14 photographs from the Tour of Norway race. The Google search results stated that the images originated  
15 from Getty Images.

17           20.     Plaintiff then visited Getty Images' website and discovered that 83 (eighty-three) of his  
18 photographs from the Tour of Norway 2016 were for sale on Getty's online services.

19           21.     The byline on the photographs had been changed to "MO / Tim De Waele / Corbis via  
20 Getty Images." Getty had included the text, "Credit: Morten Olsen / Stringer," misattributing the photos  
21 to Morten Olsen.

22           22.     Morten Olsen was the press officer at the Tour of Norway at the time Plaintiff worked  
23 for it.  
24

1           23. Morten Olsen, identified by the Tour of Norway as responsible for the photographs, had  
2 no role in setting up for the photographs, taking the photographs, or editing the photographs.

3           24. Plaintiff contacted Anders Eia Linnestad with the Tour and inquired as to why the pictures  
4 were for sale on Getty's website. Mr. Linnestad responded, "We were under the impression that we had  
5 all the rights to the photos taken by you. We shared the photos with Tim de Waele, among others, in  
6 order to spread photos in media all over the World as this has great value for us. Two years ago, he  
7 started working for Getty Images, and it seems that all photos from his database are transferred to Getty."

8           25. When examining the infringing use of his images, Plaintiff noticed that Defendant or  
9 someone acting on Defendant's behalf had altered the image to remove the Copyright Management  
10 Information. See 'screenshot' taken by Plaintiff of Defendant's online use of one of his images showing  
11 false copyright management information in the metadata at **Exhibit B**.

12           26. Plaintiff, through counsel, contacted Defendant to inform it of the infringement and to try  
13 to amicably resolve the matter. Plaintiff requested that Getty cease and desist from any further use or  
14 publication of any of Plaintiff's photographs, remove Plaintiff's photographs from its account, and  
15 provide a detailed accounting of all licensing which has occurred connected to any of the 83 images and  
16 the identity of and contact information for all individuals or entities provided a purported license to use  
17 any of Plaintiff's 83 images.

18           27. Defendant stated that it had received the images from the Tour of Norway. Defendant  
19 further stated that "Morten Olsen was the chief of media for the Tour of Norway who provided the  
20 photos." Defendant claimed that the Tour had made the photographs available for distribution "without  
21 any caveat or reference to any other rightsholder."  
22  
23  
24

1 28. Despite Defendant's claim that the Tour made the photographs available for distribution  
2 "without any caveat or reference to any other rightsholder," Defendant apparently listed the photographs  
3 as available for license/sale on Defendant's commercial website that licenses and sells photography.

4 29. On May 4, 2022. Defendant claimed that it had removed the infringing images from its  
5 website. However, Defendant did not provide the requested licensing information.

6 30. Plaintiff has no knowledge of when Defendant began offering Plaintiff's copyrighted  
7 images for sale on its website.  
8

9 **FIRST CAUSE OF ACTION**  
10 **COPYRIGHT INFRINGEMENT**  
11 *Title 17 of the United States Code*

12 31. Plaintiff incorporates by reference paragraphs 1 – 30 of this Complaint as though fully  
13 stated herein.

14 32. Plaintiff did not consent to, authorize, permit, or allow in any manner the described use  
15 of Plaintiff's unique and original material and/or work on Defendant's website.

16 33. Plaintiff is informed and believes and thereon alleges that said Defendant breached Title  
17 17 of the U.S. Code in that they published, communicated, benefited through, posted, publicized, and  
18 otherwise held out to the public for commercial benefit, Plaintiff's original and unique work without the  
19 Plaintiff's consent or authority and acquired monetary gain and market benefit as a result.  
20

21 34. As a result of each and every one of Defendant's violations of Title 17 of the U.S. Code,  
22 Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b).  
23

24 **SECOND CAUSE OF ACTION**  
25 **REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION**

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*Title 17 Sections 1202 and 1203 of the United States Code*

35. Plaintiff incorporates by reference paragraphs 1 – 30 of this Complaint as though fully stated herein.

36. Plaintiff's original images contained Copyright Management Information providing, in addition to other information, the identity of the creator of the copyrighted work.

37. As the Copyright Management Information originally appended to the subject image was missing from the image published on Defendants' [www.gettyimages.com] website, it appears Defendant removed and/or altered the Copyright Management Information in violation of 17 U.S.C. § 1202(b)(1).

38. As the Copyright Management Information originally appended to the subject image was missing from the images published on Defendant's website, Defendants, upon information and belief, violated 17 U.S.C § 1202(b)(3).

39. As a result of Defendant's violations of Title 17 of the United States Code identified in the instant Second Cause of Action, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. § 1203(c)(A) or statutory damages in the sum of up to \$25,000.00 per violation pursuant to 17 U.S.C. § 1203(c)(B).

**DEMAND FOR JURY TRIAL**

40. Plaintiff demands a trial by jury of any and all causes of action so triable.

**PRAYER FOR RELIEF**

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1       **WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- 2       1.     Finding that Defendant infringed on Plaintiff's copyrights in Plaintiff's images.
- 3       2.     Finding that Defendant violated 17 U.S.C. § 1202 for removal and/or alteration of
- 4             the Copyright Management Information originally contained in Plaintiff's images;
- 5       3.     Awarding actual damages pursuant to (504)(a)(1) for each instance of copyright
- 6             infringement;
- 7       4.     Awarding actual damages for each violation of 17 U.S.C. § 1202;
- 8       5.     Awarding costs of litigation and reasonable attorneys' fees related to Plaintiff's
- 9             second cause of action pursuant to 17 U.S.C. § 1203(b);
- 10       6.    Enjoining the Defendant from further infringement of all copyrighted works of the
- 11             Plaintiff pursuant to 17 U.S.C. § 502(a); and
- 12       7.    Providing such other and further relief the Court deems just and proper under the
- 13             circumstances.
- 14
- 15

16   DATE: March 14, 2023

Respectfully submitted,

17             s/Dubs Herschlip

18             Dubs Herschlip, WSBA #31652  
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